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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,138	12/15/2003	Thomas E. Creamer	BOC9-2003-0081 (455)	3693
40/987 7590 08/06/2008 AKERMAN SENTERFITT P. O. BOX 3188 WEST PALM BEACH, FL 33402-3188				
EXAMINER				
PATEL, HEMANT SHANTILAL				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/736,138

Applicant(s)

CREAMER ET AL.

Examiner

HEMANT PATEL

Art Unit

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's submission filed on May 19, 2008 in response to Office Action dated February 19, 2008 has been entered. Claims 1-26 are pending in this application.

Response to Amendment

2. Applicant's arguments with respect to claims 1-26 have been considered but are moot in view of the new ground(s) of rejection. The rejections are necessitated due to claim amendments.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 4-6, 9-13, 16-20, 23-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Walters (US Patent No. 6,453,281 B1).

Regarding claim 1, Walters teaches of a method of marking various types of audio content within an audio file comprising:

for each type of audio content (col. 27 ll. 15-20 type of lecture provided by each professor), defining a set of audio tags comprising an opening tag (Fig. 28, S1, S2, S3) and a closing tag (Fig. 28 corresponding E1, E2, E3);

associating the set of audio tags with a corresponding type of audio content (S1-E1 with SP1, S2-E2 with SP2, S3-E3 with SP3);

marking a starting location of the corresponding type of audio content within the audio file using the opening tag (S1 for SP1, S2 for SP2, S3 for SP3); and

marking an ending location of the corresponding type of audio content within the audio file using the closing tag (E1 for SP1, E2 for SP2, E3 for SP3) (col. 26 ll. 44-col. 28 ll. 39).

Regarding claim 4, Walters teaches of storing audio file in storage as digitized voice file (col. 9 ll. 10-24).

Regarding claim 5, Walters teaches of content including voice prompts (col. 27 ll. 46-52, ll. 55-60).

Regarding claim 6, Walters teaches of an audio file recorded on a machine readable storage medium (database and memory), comprising:

first digitized information specifying at least one type of audio content within the audio file (col. 27 ll. 50-52, 55-60 icon and/or verbal prompt); and

second digitized information specifying a set of tags (S1-E1, S2-E2, S3-E3), wherein said set of tags comprises an opening tag indicating a beginning location within the audio file of a type of audio content (S1, S2, S3) and a closing tag indicating an ending location within the audio file of the type of audio content (E1, E2, E3);

wherein said set of tags is associated with the type of audio content for which said set of tags indicates a beginning and an end (respectively for SP1, SP2, SP3) (col. 26 ll. 44-col. 28 ll. 39).

Regarding claim 9, Walters teaches of storing audio file in storage as digitized voice file (col. 9 ll. 10-24).

Regarding claim 10, Walters teaches of stored content including voice prompts (col. 27 ll. 46-52, ll. 55-60).

Regarding claim 11, Walters teaches of plurality of tag sets (S1-E1, S2-E2, S3-E3) indicating organization of a plurality of content types (SP1, SP2, SP3) included within audio file (Fig. 28 item 622 file between S-E) (col. 27 ll. 46-col. 28 ll. 5).

Regarding claim 12, Walters teaches of hierarchically ordering content types (PGM-1, PGM-2, PGM-3, PGM-4; SP1, SP2, SP3) using their respective tag sets (Fig. 28 items 604, 622, col. 26 ll. 61-col. 27 ll. 14, col. 27 ll. 41-col. 28 ll. 39).

Regarding claim 13, Walters teaches of a system (Fig. 28 item 600) for marking various types of audio content within an audio file comprising:

means for defining (Fig. 28 item 602), for each type of audio content (col. 27 ll. 15-20 type of lecture provided by each professor), a set of audio tags comprising an opening tag (Fig. 28, S1, S2, S3) and a closing tag (Fig. 28 corresponding E1, E2, E3);

means (Fig. 28 item 602) for associating the set of audio tags with a corresponding type of audio content (S1-E1 with SP1, S2-E2 with SP2, S3-E3 with SP3);

means (Fig. 28 item 602) for marking a starting location of the corresponding type of audio content within the audio file using the opening tag (S1 for SP1, S2 for SP2, S3 for SP3); and

means (Fig. 28 item 602) for marking an ending location of the corresponding type of audio content within the audio file using the closing tag (E1 for SP1, E2 for SP2, E3 for SP3) (col. 26 ll. 44-col. 28 ll. 39).

Regarding claim 16, Walters teaches of storing audio file in storage as digitized voice file (col. 9 ll. 10-24).

Regarding claim 17, Walters teaches of stored content including voice prompts (col. 27 ll. 46-52, ll. 55-60).

Regarding claim 18, Walters teaches of plurality of tag sets (S1-E1, S2-E2, S3-E3) indicating organization of a plurality of content types (SP1, SP2, SP3) included within audio file (Fig. 28 item 622 file between S-E) (col. 27 ll. 46-col. 28 ll. 5).

Regarding claim 19, Walters teaches of hierarchically ordering content types (PGM-1, PGM-2, PGM-3, PGM-4; SP1, SP2, SP3) using their respective tag sets (Fig. 28 items 604, 622, col. 26 ll. 61-col. 27 ll. 14, col. 27 ll. 41-col. 28 ll. 39).

Regarding claim 20, Walters teaches of a machine readable storage (Fig. 28 item 602 computer with its memory), having stored thereon a computer program having a plurality of code sections executable by a machine for causing the machine to perform the steps of:

for each type of audio content (col. 27 ll. 15-20 type of lecture provided by each professor), defining a set of audio tags comprising an opening tag (Fig. 28, S1, S2, S3) and a closing tag (Fig. 28 corresponding E1, E2, E3);

associating the set of audio tags with a corresponding type of audio content (S1-E1 with SP1, S2-E2 with SP2, S3-E3 with SP3);

marking a starting location of the corresponding type of audio content within the audio file using the opening tag (S1 for SP1, S2 for SP2, S3 for SP3); and

marking an ending location of the corresponding type of audio content within the audio file using the closing tag (E1 for SP1, E2 for SP2, E3 for SP3) (col. 26 ll. 44-col. 28 ll. 39).

Regarding claim 23, Walters teaches of storing audio file in storage as digitized voice file (col. 9 ll. 10-24).

Regarding claim 24, Walters teaches of stored content including voice prompts (col. 27 ll. 46-52, ll. 55-60).

Regarding claim 25, Walters teaches of plurality of tag sets (S1-E1, S2-E2, S3-E3) indicating organization of a plurality of content types (SP1, SP2, SP3) included within audio file (Fig. 28 item 622 file between S-E) (col. 27 ll. 46-col. 28 ll. 5).

Regarding claim 26, Walters teaches of hierarchically ordering content types (PGM-1, PGM-2, PGM-3, PGM-4; SP1, SP2, SP3) using their respective tag sets (Fig. 28 items 604, 622, col. 26 ll. 61-col. 27 ll. 14, col. 27 ll. 41-col. 28 ll. 39).

Claim Rejections - 35 USC § 103

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2-3, 7-8, 14-15, 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walters as applied to claims 1, 6, 13, 20 above, and further in view of Hamel (US Patent No. 5,943,402).

Regarding claims 2, 3, Walters does not clearly teach of storing the tags (S1, S2, S3, E1, E2, E3) in the form of tones or waveform shapes in the file.

However, in the same field of endeavor, Hamel teaches of a method and a system to indicate and store in the audio file an acoustic bullet in the form of a tone (and hence its distinct waveform shape based on the specific frequency of the tone) and corresponding annotation to indicate the type of content in the audio file (Fig. 1 for system; Figs 2A-2G for method and Figs. 3A-3B for audio file and their corresponding descriptions).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Walters to use tones to indicate the type of content in the audio file as taught by Hamel in order to allow the user to manipulate audio content remotely using the ubiquitous keypad from a remote telephone.

Regarding claim 7, refer to rejections for claim 6 and claim 2.

Regarding claim 8, refer to rejections for claim 6 and claim 3.

Regarding claim 14, refer to rejections for claim 13 and claim 2.

Regarding claim 15, refer to rejections for claim 13 and claim 3.

Regarding claim 21, refer to rejections for claim 20 and claim 2.

Regarding claim 22, refer to rejections for claim 20 and claim 3.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **HEMANT PATEL** whose telephone number is (571)272-8620. The examiner can normally be reached on 8:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 571-272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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